



ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1155

[Docket No. ATBCB-2020-0003]

RIN 3014-AA46

Procedures for Issuing Guidance Documents; Recission

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Final Rule.

SUMMARY: Pursuant to the Executive Order entitled “Revocation of Certain Executive Orders concerning Federal Regulation”, the Architectural and Transportation Barriers Compliance Board (hereafter, “Access Board,” or “Board”), is removing its regulation that details internal procedures for issuance, public availability, modification, and withdrawal of agency guidance documents, as defined by the Executive Order entitled “Promoting the Rule of Law Through Agency Guidance Documents”.

DATES: This final rule is effective [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: General Counsel Christopher Kuczynski, (202) 272-0042, generalcounsel@access-board.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Executive Order (E.O.) 13891, “Promoting the Rule of Law Through Improved Agency Guidance Documents,” issued on October 9, 2019, required each agency to promulgate regulations that “set forth processes and procedures for issuing guidance documents.” 84 FR 55235. On September 21, 2020, the Board issued a final rule, entitled “Guidance Documents,” to implement E.O. 13891. 85 FR 59187. The final rule established 36 CFR Part 1155, which created internal procedural requirements governing the issuance, public availability, and modification or withdrawal of Access Board guidance documents.

On January 20, 2021, President Biden issued E.O. 13992, “Revocation of Certain Executive Orders Concerning Federal Regulation,” which, among other things, revokes E.O. 13891. 86 FR 7049. To comply with the new executive order, the Access Board is rescinding its newly-issued guidance procedures codified at 36 CFR Part 1155. Nonetheless, the Board intends to retain all Access Board guidance documents in a single location on the agency’s website at www.access-board.gov/guidance, as we believe this improves the usability of, and access to, our guidance documents for the public.

II. Regulatory Process Matters

Administrative Procedure Act

The rescinded guidance procedures and this final rule solely address internal matters related to agency management and practices. As such, this rule is exempt from the notice-and-comment process pursuant to the Administrative Procedure Act. See 5 U.S.C. 553(a)(2), 553(b)(3)(A). The original final rule was issued without notice and comment. This rule is also exempt from the requirement in 5 U.S.C. 553(d) that the effective date of a regulation must be at least 30 days after publication in the *Federal Register*.

Executive Order 12866

This final rule rescinds internal rules of agency procedure only. OMB has determined that the rule is not a significant regulatory action within the meaning of Executive Order 12866.

Congressional Review Act

This final rule is not a major rule within the meaning of the Congressional Review Act. *See* 5 U.S.C. 801, *et seq.*

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires Federal agencies to analyze regulatory options that may assist in minimizing any significant impact of a rule on small businesses and small governmental jurisdictions. *See* 5 U.S.C. 604, 605(b). Because this final rule relates solely to the rescission of agency internal procedures and, moreover, is not subject to notice-and-comment rulemaking, the RFA is inapplicable.

Federalism (Executive Order 13132)

The Access Board has analyzed this direct final rule in accordance with the principles and criteria set forth in Executive Order 13132. The Board has determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have Federalism implications.

Paperwork Reduction Act

This final rule does not specify any new collections of information or recordkeeping requirements that require OMB approval under the Paperwork Reduction Act. See 44 U.S.C. 3501 *et seq.*

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (codified at 2 U.S.C. 1531 *et seq.*) (“UMRA”) generally requires that Federal agencies assess the effects of their discretionary regulatory actions that may result in the expenditure of \$100 million (adjusted for inflation) or more in any one year by the private sector, or by State, local, and tribal governments in the aggregate. Because this direct final rule is being issued under the good cause exception in the Administrative Procedure Act section 553(b)(B), UMRA’s analytical requirements are inapplicable. See 2 U.S.C. 1532(a).

List of Subjects

36 CFR Part 1155

Administrative practice and procedure.

For the reasons discussed in the preamble, and under the authority of 29 U.S.C. 792, the Access Board amends 36 CFR chapter XI as follows:

PART 1155 – [REMOVE AND RESERVE]

1. Remove and reserve part 1155.

Sachin Pavithran,

Executive Director.

